

REMARKS

Favorable reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks. Claims 1-5 have been canceled and new claims 6-11 have been added. Accordingly, claims 6-11 are pending and under consideration in the application. Support for the new claims may be found throughout the specification as originally filed. In particular, support for new claims 6-8 can be found, for example, at page 9, lines 6-8, page 10, lines 7-14, and page 12, lines 16-20. Support for claims 9-11 can be found, for example, at page 6, lines 15-23. No new matter has been added. It should also be noted that the above amendments are not to be construed as acquiescence with regard to the Examiner's rejections and are made without prejudice to prosecution of any subject matter removed or modified by this amendment in a related divisional, continuation or continuation-in-part application.

Informalities

Applicant thanks the Examiner for noting that the claims are not complete sentences. Applicant has amended the specification to insert "What is claimed is" just prior to claim 1. Accordingly, Applicant submits that the claims are now in the proper format.

Rejections Under 35 U.S.C. § 112, Second Paragraph (Indefiniteness)

Claims 1-5 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Action points out that the phrase "cell population" should read "a cell population". Further, the Action contends that the Markush grouping is improper and that each member of the group as recited should be written as a separate dependent claim.

Applicant has canceled claims 1-5 without acquiescence and without prejudice to prosecution of any subject matter removed or modified by this amendment in any related application. Accordingly, Applicant submits that the rejection has been obviated and may be properly withdrawn.

Rejections Under 35 U.S.C. § 102(b)

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by PR Newswire (07 December 1998) and by Henderson (Cancer Weekly Plus, 21 December 1998). The Action contends that the cited references teach a method for the restoration or enhancement of immune function in immunocompromised or immunosuppressed patients (terminal non-Hodgkin's lymphoma patients) comprising administering autologous T cells activated with anti-CD3 and anti-CD28 antibodies.

Applicant respectfully traverses this rejection. With the cancellation of claim 1-4, this rejection has been obviated as it relates to these claims. Applicant addresses this rejection as it may potentially apply to the newly added claims.

Applicant respectfully submits that, to anticipate, a reference must disclose each and every element of the claimed invention, either explicitly or inherently. Applicant submits that the cited references do not teach or suggest each and every element of the claimed invention. The cited references are merely press releases stating that immunotherapy using activated T cells can be effective. Nowhere do the references teach or suggest a method for restoring or enhancing immune function in an immuno-compromised or immuno-suppressed subject, comprising, contacting T cells obtained from the subject with a surface, wherein the surface has coupled thereto in cis; an agent that activates the T cells by stimulating a TCR/CD3 complex; and a ligand that stimulates an accessory molecule on the surface of the T cells, as recited in the instant claims. On these grounds alone, Applicant submits that the references do not anticipate the claimed invention. Nonetheless, Applicant further submits that the cited references are also not enabling for the claimed invention. There is no teaching on how to make or use the claimed surfaces having coupled thereto in *cis*, an agent that activates the T cells by stimulating a TCR/CD3 complex; and a ligand that stimulates an accessory molecule on the surface of the T cells.

In view of the above remarks, Applicant submits that the claimed invention is not anticipated by the cited references and respectfully request withdrawal of the rejection.

Rejections Under 35 U.S.C. § 112, Second Paragraph (Indefiniteness)

Claim 5 stands rejected under 35 U.S.C. § 112 first paragraph as allegedly lacking enablement. In particular, the Action alleges that the specification, while being enabling for a method for the restoration or enhancement of immune function in immunocompromised or immunosuppressed patients comprising administering **autologous** T cells activated with anti-CD3 and anti-CD28 antibodies, the specification allegedly does not reasonably provide enablement for a method for the restoration or enhancement of immune function in immunocompromised or immunosuppressed patients comprising administering **allogeneic** T cells activated with anti-CD3 and anti-CD28 antibodies.

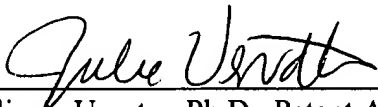
Without acquiescing to the Action's rejection, Applicant has canceled claim 5 solely for the purposes of expediting prosecution of the application, and without prejudice to pursuing the subject matter in a related application. Accordingly, Applicant submits that the rejection has been obviated and may be properly withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicant respectfully submits that all the claims remaining in the application are now believed allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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